

**CITY OF GLOUCESTER
CONSERVATION COMMISSION MINUTES
WEDNESDAY June 1, 2011 - 7:00 PM**

**CITY HALL, KYROUZ AUDITORIUM
ROBERT GULLA, CHAIRMAN**

Members Present:

Robert Gulla, Chair
Ann Jo Jackson, Co-Chair
Steve Phillips
Barry Gradwohl
Charlie Anderson
Helen Farr- [Absent](#)
Arthur Socolow-[Absent](#)

Staff:

Lisa Press, Agent
Pauline Doody, Recording Clerk

Items may be heard 15 minutes before their scheduled time.

I. 1-5 minutes, review of amended, updated or final information, status reviews, modifications, signing decisions etc.

28-2148-137 Wingaersheek Rd

Ms. Press stated the issue was the timing of the dune grass planting. The attorney asked if money could be put in escrow for the planting that would take place in November, so they can start construction work now and not lose a whole season. Ms. Press stated she had asked Mary Rimmer for an estimated of the cost for the work, but have not heard from her yet

John Judd Gateway Consultants

Mr. Judd stated he cannot speak to the issue at this time.

Ms. Press stated she would like to continue.

Motion: To continue 137 Wingaersheek Rd to June 15.

1st Steve Phillips

2nd Charles Anderson.

Vote: Approved 5-0

MBTA Railway

Larry Durkin, DPW Environmental Engineer, City of Gloucester

Mr. Durkin stated Gloucester public water system is divided to an east and west system and a railroad runs through it. The city had gone through rounds of sampling and in 2004 a herbicide detection had been found in Babson Reservoir. Since then there have been more testing and no detection was found in the Babson Reservoir. My recommendation is to modify the spraying in this area and to deny the request for determination. We will appeal to the MDAR to fully extend the Figure 3 Babson Reservoir from the watershed no spray zone to sensitive area spray zone. It should be deemed a sensitive area and more restrictive setbacks would apply.

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Kyle Fair, Tech Associates

Mr. Fair asked Mr. Durkin which herbicide was found in the water.

Mr. Durkin stated the herbicide found was Dalapon

Mr. Fair stated it didn't have anything to do with what on our list

Mr. Durkin read Dave Sargent's comments to the commission.

Mr. Fair stated the State conducted an 8 month long trial in Attleboro and Foxborough. They had a 10 foot buffer zone from standing water and Babson has a 100 foot buffer zone.

Mr. Gulla stated this is a bigger issue than we thought. It is not asking too much to give a positive RDA and then go towards a Notice of Intent. One area that is particularly worrisome is our watershed.

Mr. Fair stated that all comments submitted, were submitted in 2005 and 2006 and none of the structures have changed since then.

Mr. Gulla stated we have had a lot of issues with our water supply. We have had many people come to us and tell us how sensitive the area is

Mr. Fair stated it is a boundary determination. The sensitive areas have been determined and everything has been the same. It is a boundary notification. If you have a boundary question for the actual work being done that should be directed to the state where it is regulated. At the last meeting the commission was aware of the boundaries and continued to this meeting to get comments from shellfish and water.

Mr. Durkin stated we can appeal this and more restrictive setbacks can be applied.

Mr. Fair stated we won the appeal last time.

Mr. Phillips stated that Mr. Fair's position is tenable. If you read the manual it is clear that the role of the commission of this application is limited to the wetlands delineation and we are not supposed to get into the review of the procedures or the chemical used. Since the last meeting I have taken a look and to me it is not as clear as the manual makes it. The presumption is that activities undertaken will not affect wetlands and can be overcome by scientific evidence. More fundamentally to me, it applies to electric, gas, telegraph, and communication services and it does not include railroad. I am a bit troubled by what the intent is of the statute of the regulations. Even though our manual supports Mr. Fair's position, but I have more questions than that. His position is tenable, but I am not sure it is right. DAR is the forum where this should be resolved and not here. If we give a positive determination, he most likely will take it to DEP. Mr. Fair's position has a lot of merit to it, but there are some issues.

Mr. Durkin stated what would be good for the Conservation Commission to see there is a lot more beaver and ponding activity on that whole stretch. I do not have the map yet, but it will give a better delineation of the magnitude of the streams and ponding.

Mr. Fair stated the agent can view the tracks to concur with the plans. This is not the forum to discuss this.

Mr. Phillips stated his recommendation is to ask the MBCR for a continuance to get delineation of the wetlands.

Public comment:**Russell Hobbs 1166 Washington Street**

Mr. Hobbs cited the Gloucester Code of Ordinances chapter 23-62 protection of public water supplies. It shows in the ordinance, that no one should be putting anything in our water shed. Mr. Hobbs read from ordinance. The area is always wet. Just because

they have always been allowed to do it doesn't make it right. Our water is very vulnerable and Babson is at high risk.

Joe Orange- Water Shed Constable

Mr. Orange stated he has spent thousands of hours to protect the waters. Babson Reservoir is a gem in the town. We cannot suffer the loss of our drinking water. Don't play dice with the Babson Reservoir.

Doug Smith, 2 Mayflower Lane

Mr. Smith stated there are published evidence that certain herbicides should not be used and it is a risk we shouldn't take.

Mr. Gulla asked Mr. Fair if he would like the commission to vote.

Mr. Fair stated he would. He feels this is a stall tactic on the part of the Commission.

Mr. Gulla stated he would refute that. The commission wants to understand the boundary issues and where the buffers are

Motion: Positive determination for MBTA Railway

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 4-0-1 with Steve Phillips abstaining

II. PUBLIC COMMENT -None

III MINUTES REVIEW- Tabled until next meeting.

IV PUBLIC HEARING approximately 7:15 PM

- A. New RFD 12 Marble Road** Request for Determination submitted by Sarah & Jason Grow, to construct an addition and a covered porch to a dwelling. (Map 77, lot 43)

Presenter: Attorney Kathryn Schlichte

Attorney Schlichte stated her clients will be tearing out a one story addition and making it into a two story. A 4x23 foot trench will be dug for a frost wall, 4 sona tubes on porch corners and the remainder of the foundation will be pinned to ledge above ground to the garage. It will run the length of the house and is on the edge of buffer. A filter sock will be placed along the edge and the dumpster will be tarped.

Commission Comments:

Ms. Press stated there is some increase in impervious and mitigation is needed. The only thing to be mitigated for is the apple tree.

Public Comment: None

Conditions:

- **2-1 Mitigation for Apple tree**
- **Preconstruction site walk with Agent**

Motion: Negative Determination 12 Marble Road submitted by Sarah & Jason Grow, to construct an addition and a covered porch to a dwelling. (Map 77, lot 43)

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 5-0

B. New 28-2145- 18 Keystone Road Notice of Intent submitted by Mary Godwin, 18 Keystone Road, to construct a driveway in the buffer to an inland resource area. (Map 237 lot 115).

Presenter: John Judd Gateway Consultants

Mr. Judd stated these are preexisting vacant lots and the wetland system consists of an intermittent stream. There is an existing gravel driveway that will be extended. It will include a 2" water line to be installed.

Commission Comments:

Ms. Jackson asked for more detail on surface grading.

Mr. Judd stated that there would only be a slight alteration in grade, approximately 2' and no trees would be coming down.

Public Comment: None

Conditions:

- Photographed documentation of site/path by the agent

Motion: Accept the NOI for 18 Keystone Road submitted by Mary Godwin, 18 Keystone Road, to construct a driveway in the buffer to an inland resource area. (Map 237 lot 115).

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 5-0

B. New 28-2146-16 Keystone Road Notice of Intent submitted by Mary Godwin, to construct a driveway in the buffer to an inland resource area. (Map 237 lot 116).

Presenter: John Judd Gateway Consultants

Mr. Judd stated they would be using the existing gravel path and 220 feet of existing path will return to its natural state.

Public Comment: None

Conditions:

- Trees to be marked that will be taken down
- Photographs of path
- Erosion control to be in place according to Agent.
- Preconstruction visit.
- 220 feet of path to revert to natural state

Motion: Accept the NOI 16 Keystone Road submitted by Mary Godwin, to construct a driveway in the buffer to an inland resource area. (Map 237 lot 116).

1st: Ann Jo Jackson
2nd: Charles Anderson
Vote: Approved 5-0

C. New 28-2147- 162 Atlantic St, Sleepy Hollow Pond, Notice of Intent submitted by Wingaersheek Improvement Association, Atlantic Ave, to remove 2 beaver dams in an inland resource area. (Map 254 lot 3).

Presenter: John Judd, Gateway Consultants

Mr. Judd stated Sleepy Hollow pond has been blocked by beavers. An emergency application was issued to breach the dam, the work has taken place and the water level has dropped. The beavers have been trapped by a certified professional in accordance with the Board of Health..

Commission Comments:

Mr. Gulla stated that each time you need to breach the pond, you will need to come before the commission.

Public Comment: None

Motion: To approve 162 Atlantic St, Sleepy Hollow Pond, submitted by Wingaersheek Improvement Association, Atlantic Ave, to remove 2 beaver dams in an inland resource area. (Map 254 lot 3).

1st: Barry Gradwohl
2nd: Ann Jo Jackson
Vote: Approved 5-0

V. PUBLIC HEARINGS approximately 8:15 PM

A. New-28-2143- 85 Atlantic Road Notice of Intent submitted by Peter Cavallaro, Bass Rocks LLP, to remove and replace decks and footings, construct a wall with an expansion in the buffer to a coastal resource area. (Map 71 lot 16).

Presenter: Bill Manuel, Wetlands and Land Management

Mr. Manuel stated the project includes removal and replacement of decks and footings. Also to build a masonry wall and construct a deck in the same footprint. The coastal bank is across the street, 90 feet away. It is a rock outcrop. There is a stone wall that is good for erosion control. We expect a shallow excavation and it will be minimal excavation. There is no extension of deck in the buffer zone.

Public Comment:

Blake Gilson, 87 Atlantic Road.

Mr. Gilson stated he was not opposed to the project, but concerned with the new foundation may be a cursor to something later on. Last year there was a proposal that was withdrawn that was a larger project. He asked what was under the deck.

Mr. Manuel stated bedrock and soil.

Motion: To accept 85 Atlantic Road submitted by Peter Cavallaro, Bass Rocks LLP, to remove and replace decks and footings, construct a wall with an expansion in the buffer to a coastal resource area. (Map 71 lot 16).

1st: Ann Jo Jackson

2nd: Charles Anderson

Vote: Approved 5-0

B. New- 28-2144- 7 Pebble Path Notice of Intent submitted by Gregory Agganis, 7 Pebble Path, to remove and replace septic system, and to construct an addition in a coastal dune resource area. (Map 261 lot 15).

Presenter: April Ferraro Meridian Associates

Ms. Ferraro stated the site is split into a coastal beach area and rest of site is coastal dune. It is also split into tow zone velocity zone and rest is zone c. There is also an existing common driveway. Some of it is paved and the rest is stone. The addition is to the rear of house. It will be 800 square feet and be put on piles. The existing septic tank will need to be removed and placed outside the footprint of the building. The leaching field will remain the same. Filter mitts will put in place. The plans have been submitted to zoning and have been approved. There hasn't been any word from the Board of Health yet. It is still in review with DEP. We also submitted plans with Natural Heritage, but found we are outside their jurisdiction.

Commission Comments.

Mr. Press stated some of the area is going from gravel to impervious. She explained to the board where plantings should be that make the most sense. She also stated that erosion controls are not used in barrier reef. The dune is very well vegetated.

Public Comment: None

Conditions: That the applicant provide a suitable mitigation area.

Motion: To accept the NOI for - 7 Pebble Path submitted by Gregory Agganis, to remove and replace septic system, and to construct an addition in a coastal dune resource area. (Map 261 lot 15).

1st: Charles Anderson

2nd: Barry Gradwohl

Vote: Approved 5-0

Ms. Ferraro addressed the commission stating that she was uncertain whether the owner was going to accept the mitigation area.

Motion: To recind the vote for 7 Pebble Path submitted by Gregory Agganis, 7 Pebble Path, to remove and replace septic system, and to construct an addition in a coastal dune resource area. (Map 261 lot 15) due to need to view the site and agree upon a mitigation area.

1st: Ann Jo Jackson

2nd: Steve Phillips

Vote: 4-0

Motion: To continue 7 Pebble Path submitted by Gregory Agganis, to remove and replace septic system, and to construct an addition in a coastal dune resource area. (Map 261 lot 15). to July 6

1st Ann Jo Jackson

2nd: Charles Anderson

Vote: Approved 4-0-1 with Barry Gradwohl abstaining.

C. Continuation- 28-2140-239 Eastern Ave. Notice of Intent submitted by Chris McCarthy, Eastern Avenue Storage, after the fact removal of vegetation, with proposed maintenance of stream crossing by hand, and to clear debris pile from buffer to an inland resource area. (Map 161 lots 9, 11).

Motion: To continue 239 Eastern Ave. Notice of Intent submitted by Chris McCarthy, Eastern Avenue Storage, after the fact removal of vegetation, with proposed maintenance of stream crossing by hand, and to clear debris pile from buffer to an inland resource area. (Map 161 lots 9, 11) to June 15.

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 5-0

D. New, 45 Presson Point Road. Request for Determination submitted by Bruce Devon, to construct a gazebo. (map 229, lot 70)

Presenter: Bruce Devon, 45 Presson Point Road

Mr. Devon stated the gazebo will be put in the front garden and be done in one day. It will be set on two posts set on the ledge and no trees will be removed. It is 12x12.

Commission Comments:

Ms. Press stated that mitigation of shrubs to be planted in bare spots on property.

Public Comment: None

Conditions:

- 1-1 mitigation
- No concrete used

Motion: Negative determination for 45 Presson Point Road submitted by Bruce Devon, to construct a gazebo. (map 229, lot 70)

1st: Barry Gradwohl

2nd: Ann Jo Jackson

Vote: Approved 5-0

Steve Phillips left meeting

VI. PUBLIC HEARINGS approximately 9:15 PM

B. Continuation- 28-2101-31 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).

C. 28-2100 33 Stanwood Ave

D. 28-2099 35 Stanwood Ave

Presenter: Bill Manuel, Wetlands and Land Management.

Mr. Manuel stated revised information has been submitted and reviewed the entire past alternative that had been presented to the commission. He stated there are many other considerations that are important and the project's purpose is to develop property and to gain profit. He stated it is clear that working on site is best. Mr. Manuel proposed two new options for the project.

The number 6 alternative has been knocked down to a two lot 4 unit project. It puts the structure out of riverfront area. Only minor clearing would be needed. We have kept a similar lot size on all of these. The drawback is that 8000 square of clearing of forested lot will need to be done, it gets closer to the resource and it will have very long driveways. The riverfront impact is reduced to 670 square feet. The number 7 alternative is the last option that we think is appropriate, and it comes full circle. It is a two lot option with drainage and utility work. It is the best alternative for working on site. The riverfront impacts are 11,000 square feet. It positions the homes in the field again; they will have short drives and will use existing infrastructures. It will be profitable for owner and minimize the impacts to the riverfront.

Commission Comments:

Mr. Gulla reminded the commission that at this point we need to decide if the applicant has done everything we have asked for in alternatives analysis. If he has not, we need to be very specific to what we are looking for before asking for more. The alternative process has been exhausted to this point in my opinion.

Mr. Gradwohl asked why hasn't the number 6 proposal been shown with the driveway on the street road. It keeps showing the driveway on private land. It is allowed that previous public roads and could consider a turnaround cul-de-sac at the end.

Mr. Manuel stated Sassafras Ave is a private way. It is a logistical issue as to who has rights. We would need to go to the Gloucester Planning board for a subdivision. We would also have to go through permitting and we deemed that it was not appropriate and we have a legal right to come off Stanwood Ave.

Ms. Jackson asked what the implications would be for the commission if we decided he has exhausted all of the alternative analysis and we select one.

Mr. Press stated at this stage the commission has to pick the least impactful. If one is picked that is more impactful to the saltmarsh, there would have to be a finding.

Mr. Gulla asked for a role call regarding the alternative analysis.

- **Mr. Gulla stated he believed the alternative analysis has been done to best of applicants ability**
- **Mr. Gradwohl & Mr. Anderson concurred with Mr. Gulla**
- **Ms. Jackson rejects the alternatives, but wants to make sure that she is still able to contest duplex vs. single family. She stated she was uncomfortable with the intensity of the project.**

Ms. Press stated the third lot goes to conservation restriction.

Motion: To accept the alternatives analysis for 31 Stanwood

1st: Barry Gradwohl

2nd: Charles Anderson

Vote: Approved 3-1 with Ms. Jackson opposed.

Motion: To accept the alternatives analysis for 33 Stanwood Avenue

1st: Barry Gradwohl

2nd: Charles Anderson

Vote: Approved 3-1 with Ms. Jackson opposed.

Motion: To accept the alternatives analysis for 35 Stanwood Ave as part of the alternative analysis is complete and will be a conservation restricted lot.

If it is not accepted by Greenbelt the Conservation Commission will have to find another suitable entity to take control of it. It will be deeded to conservation.

1st: Barry Gradwohl

2nd: Charles Anderson

Vote: Approved 4-0

Mr. Gulla stated the next step is to pick which alternative is best and has the least impact.

Ms. Press stated she believes alternative 6 has the least impact to riverfront. It does go into buffer to salt marsh. If you choose 7 you would have to have a finding. Alternative 6 is preferable because of the open meadow which is a valuable and rare resource. There are a lot of animals that depend on it. It is a rare thing

Mr. Manuel stated it is not a meadow but a mowed field. He stated alternative 7 is best, because it places the structure in the mowed field and uses minimal access off of Stanwood.

In reviewing the alternative analysis plans 6 & 7, there was extensive conversation between the commissioners and the city's agent as to which alternative would be best for the site.

Ms. Press suggested having a site visit with the areas staked.

Public Comment:

Kathy Hines, 38 Stanwood Ave

Ms. Hines stated she was not happy with either alternative analysis. If you are going to vote on one, it must be the one that could be defended better than the other. There is not one house in the area that has a concrete driveway. There is not one person in the neighborhood who wants this to happen. I still think it is too intense.

Janell McKaty 24 Stanwood Ave

Ms. McKaty stated that this all goes back to profit. Lupine Lane is already developed so why goes to a place that that is natural and will be disturbed. There are coyotes in the area and what will happen to them. It will cause problems for us.

Christine Rasmountin, 82 Stanwood Ave.

Ms. Rasmountin stated she was disappointed with the vote. The intensity it too much. It is a meadow and is a home to wildlife and four units is too much.

The one way to be sure that no more building will be done, is to have all the lots transferred to the commission.

Mr. Hines, 38 Stanwood Ave

Mr. Hines stated he was concerned with the increase in traffic to the area.

Julie Kenyon

Ms. Kenyon stated that Sassafras Ave is basically my driveway and it breaks her heart to see this development. It is not appropriate for this area.

Peter Lane 10 Morris St Gloucester

Mr. Lane stated that one of the problems with Lupine Lane, is the lots have been restricted to single families. It goes back to profitability. There is no interest on the buyers part in this economy.

Kathy Hines

Ms. Hines stated when this project come to the planning board we were not allowed to speak about traffic, and here we are not able to; where do we go with our concerns?

Mr. Gulla stated it would be either planning or zoning. It is only a 3 lot division. I think if it is 4 lot subdivisions, it would be more involved and traffic would have to be considered. He stated that we don't want anyone in public to think that we haven't spent a lot of time with this.

Mr. Manuel stated he believed a site walk would be very beneficial. The area will be staked out.

Ms. Press scheduled the site visit to be June 8 at 4:30.

Motion: To continue 28-2101-31 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51) 28-2100 33 Stanwood Ave, 28-2099 35 Stanwood Ave to June 15 at 9:15pm.

1st: Barry Gradwohl

2nd: Ann Jo Jackson

Vote: Approved 4-0

VII. AS TIME PERMITS: COMMISSION BUSINESS

A. Requests for Letter Permits/Modifications

VII. AGENT'S REPORT ON VIOLATIONS

654 R Essex Ave:

Ms. Press stated there is a camper on site and wanted to make sure we are treating this the same as others.

Mr. Gulla asked if it would be impacting the resource area.

Ms. Jackson stated the commission generally doesn't deal with boats, trailers, on sites.

Mr. Gradwohl stated he is about to dig holes for a chain link fence.

Ms. Press stated if he does that he will be in violation.

Mr. Gulla stated if there is no impact it is a non issue.

Niles Beach Costal Bank

Ms. Press stated a local landscaper is dumping clippings along Niles Beach. It is ruining the vegetation. There is an enforcement order. It will go to DEP and the police dept.

Motion: To approve the enforcement order for Niles Beach

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 4-0

Motion: To Adjourn

1st: Ann Jo Jackson

2nd: Charles Anderson

Vote: Approved 4-0

If you would like additional information regarding the review status of a particular item, please contact the Community Development Conservation Department via e-mail at mdemick@gloucester-ma.gov or via phone at 978-281-9781.

Additional information can also be obtained on the Conservation Web Page at www.gloucester-ma.gov. Click Community Development for a link to Conservation.

Commission Members: If you are unable to attend the meeting, please contact the Community Development office at 978-281-9781 or send Lisa or Marie an e-mail